

## AMENDED AND RESTATED LICENSE AGREEMENT

This Amended and Restated License Agreement made this 13th day of May, 2014, by and between THE SCHOOL BOARD OF INDIAN RIVER COUNTY, FLORIDA, hereinafter referred to as the "Licensor", and INDIAN RIVER SPORTS COMPLEX, INC., a Florida not for profit corporation, hereinafter referred to as "Licensee".

### WITNESSETH:

WHEREAS, the parties entered into that certain License Agreement regarding the Rosewood Magnet School fields; and

WHEREAS, the parties wish to revise and clarify the real property subject to the License Agreement; and

WHEREAS, Licensor owns the real property and all improvements thereon which are commonly known as The Rosewood Magnet School located at 16<sup>th</sup> Street and 39<sup>th</sup> Avenue in Vero Beach, Indian River County, Florida; and

WHEREAS, the improvements at The Rosewood Magnet School includes one baseball diamond and associated bleachers, outfield fence, score box, dug outs, restrooms, and concession stand, all of which are hereinafter collectively referred to as the "Baseball Field"; and

WHEREAS, for purposes of this License, the boundary of the Baseball Field which is hereinafter referred to as "Tract 1", is more particularly described as follows:

The West 325 feet of the South 325 feet of the North 350 feet of the following described parcel:

*The West 20.75 acres of Tract 14, Section 3, Township 33 South, Range 39 East, according to the last general plat of lands of the Indian River Farms Company, which said plat was filed March 23, 1915, and recorded in Plat Book 2, Page 25, Public Records of St. Lucie County, Florida; as depicted on the attached drawings.*

WHEREAS, the improvements at The Rosewood Magnet School also include a baseball practice field, which is hereinafter referred to as the "Practice Field"; and

WHEREAS, for purposes of this License, the boundary of the Practice Field which is hereinafter referred to as "Tract 2", is more particularly described as follows:

The South 325 feet of the North 350 feet of the following described parcel:

*The West 20.75 acres of Tract 14, Section 3, Township 33 South, Range 39 East, according to the last general plat of lands of the Indian River Farms Company, which said plat was filed March 23, 1915, and recorded in Plat Book 2, Page 25, Public Records of St. Lucie County, Florida; as depicted on the attached drawings.*

*Less and excepting the West 325 feet thereof.*

WHEREAS, the Licensee is the organizer and manager of the Babe Ruth baseball program for Indian River County and for such purposes has the need for the use of Tracts 1 and 2 for its baseball activities, which include, but are not necessarily limited to Babe Ruth tryouts, team practices, and team games, all of which are open to the public at large, and all of which are collectively referred to as "Baseball Activities"; and

WHEREAS, the Licensee, to meet its need to conduct its Baseball Activities, desires for the Licensor to grant to it a non-exclusive License to use Tracts 1 and 2 for its Baseball Activities and further desires to have a right of priority over other non-exclusive users when using Tracts 1 and 2 for its Baseball Activities during after-school hours; and

WHEREAS, Licensor is willing to grant Licensee a non-exclusive License to use Tracts 1 and 2 during after school hours, weekends, and school holidays with certain rights of priority over other non-exclusive users.

THEREFORE, the parties, for good and valuable consideration, the sufficiency of which is hereby acknowledged, do hereby agree as follows:

1. The above recitations are incorporated herein as if specifically set forth.
2. The License Agreement referenced in the Whereas clauses above is terminated effective the date this Amended and Restated License Agreement is approved by Licensor.
3. The Licensor hereby grants unto the Licensee the non-exclusive License for the use of Tracts 1 and 2 for its purposes of conducting its Baseball Activities commencing on the date this Amended and Restated License Agreement is approved by the Licensor and ending on the 13th day of May, 2019.
4. Either party may terminate this License, without cause, upon thirty (30) days prior written notice to the non-terminating party.
5. Licensee acknowledges that there may be other potential users, (whether by license agreement or not) of Tracts 1 and 2, which would include but not necessarily be limited to other baseball/softball organizations or leagues, other sport organizations or leagues, (for example, soccer), and

the general public, hereinafter collectively referred to as "Potential Users", that may use Tracts 1 and 2 for recreational purposes.

6. Licensor agrees that this License shall have priority over all other Potential Users, subject to recorded easements, during after school hours, weekends, and school holidays, but no priority over Licensor for its uses.
7. In conducting its Baseball Activities, Licensee agrees that it shall be solely responsible for the management of its guests, invitees, and general public, which may attend or participate in its Baseball Activities, which management shall include but not necessarily be limited to providing the necessary lighting, the use and maintenance of the public address system, the sale and/or dispensement of refreshments and food, seating, parking, and crowd conduct and control. The Licensee shall conduct its Baseball Activities in accordance with all ordinances, rules and regulations of appropriate governmental agencies.
8. **Utilities.** The cost for all utilities consumed in the use of Tracts 1 and 2 by Licensee conducting its Baseball Activities shall be borne by the Licensee. The Licensee shall maintain an account in its own name with all utility providers providing utilities to Tracts 1 and 2 and pay all utility charges as they become due and payable.

#### 7. INDEMNIFICATION

- a. Licensee shall indemnify, defend with counsel acceptable to Licensor, and hold harmless to the full extent permitted by law, Licensor and its Board members, officers, agents, employees and volunteers from and against any and all liability, loss, damage, claims, expenses and costs (including, without limitation, attorney fees and costs and fess of litigation) (collectively, "Liability") of every nature arising out of or in connection with Licensee's use of Licensor's property pursuant to this Agreement or its failure to comply with any of its obligations contained in this Agreement. This indemnity obligation shall survive termination or expiration of the Agreement with respect to any liability which arose while the Agreement was still in effect. Licensee shall be liable to Licensor for any loss or damage to Licensor property arising from or in connection with Licensee's use of such property.

#### 8. INSURANCE LIMITS

- a. The Licensee shall maintain in full force general liability policy covering bodily injury and property damage. All policies and insurance carriers must be acceptable to Licensor and be written on an occurrence-based form. The Licensee must provide Workers'

Compensation and employer's liability coverage for all employees and volunteers.

- b. The insurance shall be in the following amounts: comprehensive general liability with a combined single limit with per occurrence limits of not less than \$1,000,000; with an annual general aggregate per policy of not less than \$2,000,000 and Workers' Compensation with limits for \$1,000,000 or statutory limits for the State of Florida.
- c. The Licensee shall provide the Licensors with a Certification of Insurance and an endorsement naming the Licensors, its officers, employees and agents as an additional insured with regard to the Licensee's activities carried out under the terms of this Agreement. The Licensors will be "Named Insured" as the Certificate Holder on the Certificate of Insurance.
- d. If the Licensee should subcontract all or any portion of the services to be performed under this Agreement, Licensee shall require each subcontractor to provide insurance protection in favor of Licensors and each of its officers, officials, employees, agents and volunteers in accordance with the terms of this Agreement, the required certificates and applicable endorsements shall be on file with Licensee and Licensors prior to the commencement of any services by the subcontractor.
- e. The Licensee agrees that it will at all times during the term of this Agreement, keep all tangible property owned by it, including fixtures, furnishings, equipment, and personal property located on Tracts 1 and 2, insured against loss by fire and lightning, extended coverage and other perils in an amount equal to the value of the tangible property owned by it and located on Tracts 1 and 2. Licensee may insure against loss by fire and lightning, extended coverage and other perils, such items of tangible personal property as it deems necessary and desirable to insure. Licensee shall have no right or cause of action against Licensors by reason of any of its tangible personal property being damaged or destroyed.
- f. The Licensee shall carry insurance for the "Baseball Field" for fire and extended coverage, vandalism and malicious mischief, proceeds of said insurance to be paid to Licensors and Licensee, as their interests may appear.
- g. No provision of this insurance requirement shall constitute a waiver of sovereign immunity of the Licensors.

- h. Tracts 1 and 2 shall be inspected and brought into compliance with the Florida Building Code pursuant to chapter 553 and the life safety codes pursuant to chapter 633 at the expense of the Licensee.
- i. Tracts 1 and 2 must be inspected annually for fire safety deficiencies in accordance with the applicable code and have corrections made in accordance with Section 1013.12 Fla. Stats.

9. **Capital Improvements and Equipment.** The Licensee must notify and obtain the prior written approval of the Licenser at least 60 days prior to the commencement of any improvements of a capital nature made by the Licensee on Tract 1. Licensee shall not be permitted to make any improvements to Tract 2. Plans and construction for renovation or remodeling of Tract 1 shall conform to the Florida Building Code, State Requirements for Educational Facilities, and the Florida Fire Prevention Code for educational occupancies or other occupancies, as appropriate and as required in chapters 553 and 633, prior to occupancy.

10. **Surrender of Possession and Waiver.** Licensee covenants and agrees that upon the expiration or termination of this Agreement, Licensee will surrender and deliver up said Tracts 1 and 2, peaceably and quietly to the Licenser, its agents or attorneys, immediately and forthwith.

11. **Liens.** Licensee agrees it will not cause or allow any construction, mechanics, materialman, or utility liens to be filed on Tracts 1 and 2, and shall immediately take all actions necessary to release any such liens at its own cost and expense.

12. **General.**

- a. The Licensee shall not have the right to assign this Agreement.
- b. Licenser and its agents shall have the right to enter upon Tracts 1 and 2 or any part thereof at all reasonable times for the purpose of inspecting Tracts 1 and 2.
- c. When either party desires to give the other a notice with respect to and in connection with, as well as according to the terms and conditions of this Agreement, such notice shall be given either by hand delivery or by registered or certified mail with return receipt requested, and if mailed, it shall be deemed to be given when deposited in the U.S. Mail with sufficient postage prepaid thereon and properly addressed as follows:

**Licensor:**

The School Board of Indian River County, Florida  
c/o Dr. Francis Adams, Superintendent  
1990 25<sup>th</sup> Street, Vero Beach, Florida 32960

**Licensee:**

Indian River Sports Complex, Inc. a Florida not for profit  
corporation  
1116 7<sup>th</sup> Place  
Vero Beach, FL 32962

- d. This Agreement contains the whole or entire agreement between the Licensor and Licensee as of the date hereof, and the execution hereof has not been induced by either party by reason or any representation, promise or understanding not definitely and specifically expressed in this Agreement. There are no collateral agreements, stipulations, promises or undertakings whatsoever upon or by the respective parties in any way concerning the subject matter of this Agreement which are not expressly, definitely and specifically contained and provided in this Agreement. No modification, release, discharge, or waiver of any provision of this Agreement shall be of any force, effect or value unless same is in writing duly signed by both parties or their respective duly authorized agent, personal representatives, guardians, executors, heirs, successors or assigns.
  - e. This Agreement shall not be recorded in the Public Records of Indian River County, Florida, however a Memorandum of License may be recorded which would set forth the parties, location of Tracts 1 and 2 and the term of this Agreement, such that any future owners of Tracts 1 and 2 will be aware of this Agreement and bound by its terms.
  - f. Licensee shall have the right, during the existence of this Agreement to attach signs that are approved in writing in advance by the Licensor, in or upon Tracts 1 and 2.
  - g. In any litigation arising out of this Agreement, neither party shall be entitled to recover attorney's fees and costs.
12. **Renewal.** The Licensee is hereby granted the right to request a renewal to this License by giving the Licensor not less than 30 days notice in advance of the License term. On renewal, the terms and conditions herein are subject to renegotiation and may include a multi-year License.

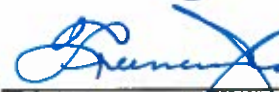
Dated this 13<sup>th</sup> day of May, 2014.

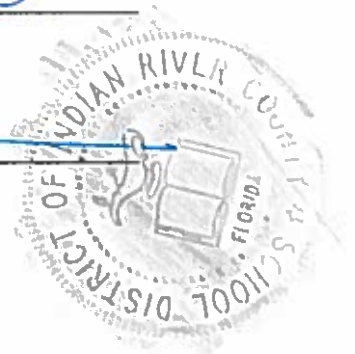
WITNESSES:

  
5/13/2014  

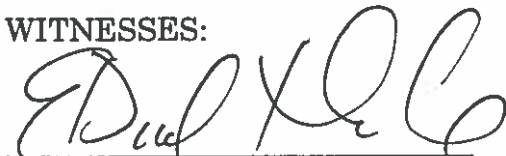


THE SCHOOL BOARD OF  
INDIAN RIVER COUNTY, FLORIDA

By:   
Carol Johnson, Chairman

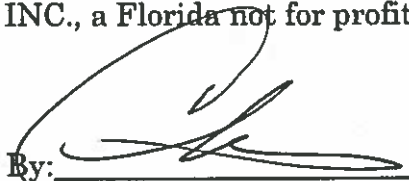
By:   
Dr. Francis Adams  
Superintendent



WITNESSES:

INDIAN RIVER SPORTS COMPLEX,  
INC., a Florida not for profit corporation,

By:   
Christopher Thomas

Title:   
Indian River Sports Complex